

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANNE BLOCK, an individual,)	CASE NO. C15-2018RSM
)	
Plaintiff,)	
)	ORDER REGARDING PENDING
v.)	MOTIONS
)	
WASHINGTON STATE BAR)	
ASSOCIATION, <i>et al.</i> ,)	
)	
Defendants.)	

I. INTRODUCTION

THIS MATTER comes before the Court on the following pending motions:

1. Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6) filed by Cary Coblantz and King County (collectively “King County Defendants”) (Dkt. #39);
2. Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(3), 12(b)(5) and 12(b)(6) filed by Defendant Mark Plivilech (Dkt. #45);
3. Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6), *inter alia*, filed by Defendants Sara Andeen, Kevin Bank, Kathryn Berger, Keith Mason Black, Stephanie Bloomfield, Michele Nina Carney, S. Nia Renei Cottrell, William Earl Davis, Stephania Camp Denton, Linda Eide, Doug Ende, Marcia Lynn Damerow Fischer, William McGillin, Michael Jon Myers, Joseph Nappi Jr., Lin O’Dell, Allison Sato, Ronald Schaps, Julie Shankland, Marc Silverman, Todd R. Startzel and Washington State Bar Association (“WSBA”) (collectively “WSBA Defendants”) (Dkt. #51); and

1 The Court will discuss facts specific to the various parties below. However, for
2 additional context to these motions, the Court notes that Plaintiff is no stranger to this Court. In
3 addition to the instant matter, she has filed two prior actions. *Block v. Chao*, Case No. C08-
4 1850JLR and *Block v. Snohomish County, et al.*, Case No. C14-0235RAJ. The latter action
5 included many of the same allegations against many of the same Defendants as the instant
6 matter. Further, while Plaintiff is proceeding *pro se* in the instant action, she is also an attorney
7 admitted to practice in Washington. However, according to Washington State Bar Association
8 (“WSBA”) records, her license is currently suspended. See
9 https://www.mywsba.org/LawyerDirectory/LawyerProfile.aspx?Usr_ID=37640 (last visited
10 3/29/2016). At least some of the allegations she makes in this action stem from apparent
11 disbarment proceedings before the WSBA. Dkt. #19 at 47, 55-56 and 59.
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14 The Court also finds relevant Plaintiff’s conduct in her prior case before the Honorable
15 Richard A. Jones. In that case, although not his typical practice, Judge Jones noted that
16 Plaintiff’s litigation in this Court appears to be part of a much larger campaign. Case No. C14-
17 0235RAJ, Dkt. #61 at 2. Plaintiff’s conduct in that case resulted not only in the dismissal of
18 her claims, but also in sanctions. See *id.*, Dkts. #6, #78, #107. That case appears to be
19 ongoing. The Court highlights the prior case because it appears the instant action is also part of
20 a larger campaign against Defendants. As further discussed below, Plaintiff appears to be using
21 her litigation as a way to attempt to punish them by hauling them into court to defend against
22 primarily meritless claims. For whatever reasons, it appears that Plaintiff feels she has been
23 wronged by Defendants and sees the judicial system not necessarily as a forum in which she
24 will receive justice, but as a tool to use against the Defendants.³
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28 ³ As this Court previously noted, evidence of this intent can be found in Plaintiff’s RICO Statement itself. Dkt. #84 at 3, fn. 3.

1 On March 31, 2016, this Court issued an Order granting four motions to dismiss, which
2 dismissed claims against numerous defendants with prejudice, including all claims against the
3 Kenyon Disend Defendants. Dkt. #84. The Court found that many of Plaintiff's claims fell
4 outside the applicable statutes of limitations, and that many of her claims lacked any evident
5 factual bases. *Id.* With that context, the Court turns to Defendants' instant motions.
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7 **III. DISCUSSION**

8 **A. Standards of Review**

9 *1. Federal Rule of Civil Procedure 12(b)(2)*

10 Federal Rule of Civil Procedure 12(b)(2) governs the dismissal of an action based on
11 lack of personal jurisdiction. Where a defendant moves to dismiss a complaint for lack of
12 personal jurisdiction, the plaintiff bears the burden of demonstrating that jurisdiction is
13 appropriate. *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). A
14 plaintiff cannot simply rest on the bare allegations of his or her Complaint, but rather is
15 obligated to come forward with facts, by affidavit or otherwise, supporting personal
16 jurisdiction. *Amba Marketing Systems, Inc. v. Jobar International, Inc.*, 551 F.2d 784, 787 (9th
17 Cir. 1977). Where, as here, the motion is based on written materials rather than after an
18 evidentiary hearing, the plaintiff need only make a *prima facie* showing of jurisdictional facts.
19 *Schwarzenegger*, at 800. Uncontroverted factual allegations must be taken as true. Conflicts
20 between parties over statements contained in affidavits must be resolved in the plaintiff's favor.
21 *Id.* A *prima facie* showing means that the plaintiff has produced admissible evidence, which if
22 believed, is sufficient to establish the existence of personal jurisdiction. *Ballard v. Savage*, 65
23 F.3d 1495, 1498 (9th Cir. 1995).
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1 Where no applicable federal statute addresses the issue, a court's personal jurisdiction
2 analysis begins with the "long-arm" statute of the state in which the court sits. *Glencore Grain*
3 *Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1123 (9th Cir. 2002).
4 Washington's long-arm statute extends the court's personal jurisdiction to the broadest reach
5 that the United States Constitution permits. *Byron Nelson Co. v. Orchard Management Corp.*
6 95 Wn.App. 462, 465, 975 P.2d 555 (1999). Because Washington's long-arm jurisdictional
7 statute is coextensive with federal due process requirements, the jurisdictional analysis under
8 state law and federal due process are the same. *Schwarzenegger*, at 800-01.

10 The Due Process Clause protects a defendant's liberty interest in not being subject to
11 the binding judgments of a forum with which it has established no meaningful contacts, ties or
12 relations. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471-72, 105 S. Ct. 2174, 85 L. Ed.
13 2d 528 (1985). In determining whether a defendant had minimum contacts with the forum state
14 such that the exercise of jurisdiction over the defendant would not offend the Due Process
15 Clause, courts focus on the relationship among the defendant, the forum, and the litigation.
16 *Shaffer v. Heitner*, 433 U.S. 186, 204, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977).

19 Personal jurisdiction exists in two forms, general and specific. *Dole Food Co. v. Watts*,
20 303 F.3d 1104, 1111 (9th Cir.2002). General jurisdiction exists over a non-resident defendant
21 when there is "continuous and systematic general business contacts that approximate physical
22 presence in the forum state." *Schwarzenegger*, at 801. In the absence of general jurisdiction,
23 the court may still exercise specific jurisdiction over a non-resident defendant. To establish
24 specific jurisdiction, the plaintiff must show that: (1) defendant purposefully availed itself of
25 the privilege of conducting activities in Washington, thereby invoking the benefits and
26 protections of its laws; (2) plaintiff's claims arise out of defendant's Washington-related
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1 activities; and (3) the exercise of jurisdiction would be reasonable. *Easter v. American West*
2 *Financial*, 381 F.3d 948, 960-61 (9th Cir. 2004); *Bancroft & Masters, Inc. v. Augusta Nat'l*
3 *Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000).

4 a. General Jurisdiction

5 A defendant is subject to general jurisdiction only where the defendant's contacts with a
6 forum are "substantial" or "continuous and systematic." *Bancroft & Masters, Inc. v. Augusta*
7 *Nat'l, Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000).

9 b. Specific Jurisdiction

10 As noted above, in the Ninth Circuit, specific jurisdiction is analyzed using a three-part
11 test: First, the nonresident defendant must have purposefully directed his activities or
12 consummated some transaction with the forum or a forum resident, or performed some act by
13 which he purposefully availed himself of the privilege of conducting activities in the forum,
14 thereby invoking the benefits and protections of its laws; second, the claim must be one which
15 arises out of or relates to the nonresident defendant's forum-related activities; and third, the
16 exercise of jurisdiction must comport with fair play and substantial justice, *i.e.*, it must be
17 reasonable. If the plaintiff is successful at establishing the first two prongs, the burden shifts to
18 the defendant to set forth a compelling case that the exercise of jurisdiction would not be
19 reasonable.

22 The first prong of the test is analyzed under either a "purposeful availment" standard or
23 a "purposeful direction" standard, which are two distinct concepts. *Washington Shoe Co. v. A-*
24 *Z Sporting Goods Inc.*, 704 F.3d 668, 672 (9th Cir. 2012). Generally for claims sounding in
25 contract, courts apply a "purposeful availment" analysis, asking whether the defendant has
26 "purposefully avail[ed]" itself of "the privilege of conducting activities within the forum State,
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1 thus invoking the benefits and protections of its laws.” *Schwarzenegger*, 374 F.3d at 802. For
2 claims sounding in tort, courts generally apply a “purposeful direction” test, looking to
3 evidence that the defendant has directed his actions at the forum state, even if those actions
4 took place elsewhere. *Schwarzenegger*, 374 F.3d at 802-03. To establish purposeful direction,
5 the plaintiff must show that the defendant committed an intentional act, expressly aimed at the
6 forum state, causing harm that the defendant knows is likely to be suffered in the forum state.
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8 *Dole Food Co., Inc. v. Watts*, 303 F.3d 1104, 1111 (9th Cir. 2002) (citing *Calder v. Jones*, 465
9 U.S. 783, 788-89, 104 S. Ct. 1482, 79 L. Ed. 2d 804 (1984)).

10 2. *Federal Rule of Civil Procedure 12(b)(3)*

11 Federal Rule of Civil Procedure 12(b)(3) authorizes a court to dismiss an action for
12 improper venue. Fed. R. Civ. P. 12(b)(3). Plaintiff has the burden of proving that venue is
13 proper in the District in which the suit was initiated. *Piedmont Label Co. v. Sun Garden*
14 *Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979). 28 U.S.C. § 1391 governs venue in civil
15 actions, and provides that “[a] civil action may be brought in (1) a judicial district in which any
16 defendant resides, if all defendants are residents of the State in which the district is located; [or]
17 (2) a judicial district in which a substantial part of the events or omissions giving rise to the
18 claim occurred, or a substantial part of property that is the subject of the action is situated . . .”.
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20 “[I]n the absence of an evidentiary hearing, the plaintiff need only make a prima facie showing
21 of jurisdictional facts to withstand [a 12(b)(3)] motion to dismiss.” *Brayton Purcell LLP v.*
22 *Recordon & Recordon*, 606 F.3d 1124, 1127 (9th Cir. 2010) (quotation omitted). The Court
23 may consider evidence outside the pleadings when determining venue, and the presence of
24 contradictory evidence requires the court to “draw all reasonable inferences in favor of the non-
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moving party and resolve all factual conflicts in favor of the non-moving party.” *Murphy v. Schneider Nat’l, Inc.*, 362 F.3d 1133, 1137 (9th Cir. 2004).

3. *Federal Rule of Civil Procedure 12(b)(5)*

Under Federal Rule of Civil Procedure 12(b)(5), a Complaint may be dismissed for “insufficient service of process.” Sufficiency of service is governed by Federal Rule of Civil Procedure 4. Plaintiff is responsible for ensuring that a Summons be served with a copy of the Complaint to each defendant, and service must be accomplished by any person who is at least eighteen years old and who is not a party to the action. Federal Rule of Civil Procedure 4(c).

Unless service is waived by the defendant or service is accomplished by a United States marshal, a plaintiff must provide proof of service to the Court by way of the server’s affidavit. Fed. R. Civ. P. 4(l)(1). Failure to provide service does not affect the validity of service, and the Court may permit proof of service to be amended. Fed. R. Civ. P. 4(l)(3). Additionally,

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

4. *Federal Rule of Civil Procedure 12(b)(6)*

On a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), all allegations of material fact must be accepted as true and construed in the light most favorable to the nonmoving party. *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 337-38 (9th Cir. 1996). However, the Court is not required to accept as true a “legal conclusion couched as a factual allegation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). The Complaint “must contain sufficient factual

1 matter, accepted as true, to state a claim to relief that is plausible on its face.” *Id.* at 678. This
2 requirement is met when the plaintiff “pleads factual content that allows the court to draw the
3 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Absent facial
4 plausibility, Plaintiffs’ claims must be dismissed. *Twombly*, 550 U.S. at 570.

5 Though the Court limits its Rule 12(b)(6) review to allegations of material fact set forth
6 in the Complaint, the Court may consider documents for which it has taken judicial notice. *See*
7 F.R.E. 201; *Swartz v. KPMG LLP*, 476 F.3d 756, 763 (9th Cir. 2007). Here, the Court has
8 taken judicial notice of, and considers herein, documents filed in Plaintiff’s other cases in this
9 Court, and specifically those filed in the aforementioned action before Judge Jones. Judicial
10 notice is appropriate because the documents presented are matters of public record, having been
11 filed on the public docket in this Court. *Lee v. City of Los Angeles*, 250 F.3d 668, 688-89 (9th
12 Cir. 2001).

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15 **c. Mark Plivilech’s Motion to Dismiss**

16 The Court first addresses Mr. Plivilech’s Motion to Dismiss. Dkt. #45. Mr. Plivilech,
17 who is proceeding *pro se*, has moved to dismiss Plaintiff’s claims against him under Federal
18 Rules of Civil Procedure 12(b)(2), 12(b)(3), 12(b)(5) and 12(b)(6). *Id.* Plaintiff has failed to
19 respond to this motion. Based on the record before it, the Court now dismisses all claims
20 against Mr. Plivilech, because, even if there were no deficiencies regarding jurisdiction, venue
21 or service of process, Plaintiff has failed to state a plausible claim against Mr. Plivilech as
22 required under Rule 12(b)(6).
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25 Mr. Plivilech asserts in his motion that he is not an attorney, he does not know
26 Defendant, his wife was a hearing officer involved with Plaintiff but he was not involved with
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those proceedings, and he had not even heard of Plaintiff until he was served with the Complaint. Dkt. #45 at 2. Nothing in the record refutes those assertions.

In her Amended Complaint, Plaintiff alleges that Mr. Plivilech conspired with his wife and other Defendants to retaliate against her. Dkt. #19 at ¶ 2.19. She also alleges he is a RICO Defendant. *Id.* The sum total “facts” alleged to support these claims are as follows:

- Mr. Plivilech lives in a house that Plaintiff asserts was obtained by exploiting an elderly non-party who had previously owned the house;
- Mr. Plivilech and his wife obtained a post office box in Duvall, even though they lived in Spokane and had no ties with Duvall; and
- Mr. Plivilech is a “convicted killer” who went to the house of another non-party and told her that he would “soon own her home”.

Dkts. #19 at ¶¶ 3.39, 3.42 and 3.56 and #20 at 7, 47 and 62. None of these allegations support a retaliation or RICO claim against Mr. Plivilech, or even give rise to the inference of any plausible claims. Nor is it clear how these actions are connected to Plaintiff. Thus, the Court agrees that any claim against Mr. Plivilech individually should be dismissed in its entirety.

Further, as discussed below, the Court will dismiss Mr. Plivilech’s wife, Defendant Lin O’Dell. Therefore, there is no longer any requirement that Mr. Plivilech be named for purposes of reaching any community marital property. As a result, Mr. Plivilech is dismissed entirely as a Defendant to this action.

B. King County Defendants’ Motion to Dismiss

The Court next turns to the King County Defendants’ Motion to Dismiss. Dkt. #39. These Defendants argue that all of the claims against them should be dismissed because Plaintiff fails to explain a connection between the alleged conspiracy and the King County

1 Defendants, and because Plaintiff has not adequately pleaded facts that explain what actions the
2 King County Defendants took, let alone facts from which it could be reasonably inferred that
3 the King County Defendants violated her rights in any way. Dkt. #39. These Defendants also
4 argue that they were not properly served. For the reasons discussed herein, the Court agrees
5 that Plaintiff's claims against the King County Defendants should be dismissed.
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7 *1. Motion to Strike*

8 The Court first addresses King County Defendants' requests that the Court decline
9 acceptance of Plaintiff's Response as untimely and that the Court decline to consider Plaintiff's
10 RICO statement. Dkt. #90 at 1-3. The Court DENIES these requests as MOOT. For the
11 reasons discussed herein, even considering the allegations contained in Plaintiff's Response and
12 RICO Statement, her claims fail as a matter of law.
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14 *2. Failure to Serve*

15 The Court next turns to King County Defendants' argument that Plaintiff has failed to
16 serve either King County or Deputy Cary Coblantz with a copy of the Summons and/or
17 Complaint in this matter. Dkt. #39 at 4. Plaintiff has failed to respond to this assertion. *See*
18 Dkt. #81. Further, there is no affidavit of service or other evidence in the record that these
19 Defendants were ever served with either the original Complaint or the Amended Complaint.
20 However, the Amended Complaint was filed on February 18, 2016. Dkt. #19. Accordingly,
21 Plaintiff has until May 18, 2016, to serve that Complaint on King County Defendants. As a
22 result, the Court declines to dismiss this action on the basis of improper service.
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3. *Failure to State a Claim*

The Court next turns to King County Defendants' argument that Plaintiff's claims should be dismissed under Rule 12(b)(6). Dkt. #39 at 4-11. The Court agrees that Plaintiff has failed to plead adequate claims against these Defendants.

First, with respect to Plaintiff's First Amendment retaliation claim, she fails to allege facts to support the elements of such a claim. Government officials may not take action in retaliation for protected expression or for the purpose of chilling that expression. *Sorrano's Gasco, Inc. v. Morgan*, 874 F.2d 1310, 1314 (9th Cir. 1984); *Hartman v. Moore*, 547 U.S. 250, 256 (2006) ("the law is settled that as a general matter, the First Amendment prohibits government officials from subjecting an individual to retaliatory actions . . . for speaking out"). This applies to retaliation for ordinary speech, petitioning the government for redress, legal actions, and other actions taken in furtherance of First Amendment activity. *See Sorrano's Gasco*, 874 F.2d at 1313-14; *Skoog v. County of Clackamas*, 469 F.3d 1221, 1231 (9th Cir. 2006); *CarePartners, LLC v. Lashway*, 545 F.3d 867, 876 (9th Cir. 2008). To establish a First Amendment retaliation claim, a plaintiff must show (1) that a defendant took some form of state action which would deter a reasonable person from engaging in First Amendment activities and (2) that the "desire to cause the chilling effect was a but-for cause of the defendant's action." *Skoog*, 469 F.3d at 1232.

King County Defendants argue that Plaintiff makes only conclusory and speculative allegations against Deputy Coblantz, and that the Amended Complaint fails to connect any of the claimed retaliatory actions to these Defendants or their alleged motivation. Dkt. #39 at 6-7. Defendants further argue that Plaintiff fails to allege any facts which could lead a reasonable person to plausibly infer such a connection. *Id.* The Court agrees with Defendants.

1 A review of Plaintiff's Amended Complaint reveals Plaintiff's failure to adequately
2 plead facts sufficient to support her First Amendment retaliation claim against Deputy
3 Coblantz. Plaintiff alleges that Deputy Coblantz was involved in some sort of effort between
4 Homeland Security and the "DOJ Interpol" to place a "tracker" on her passport in May 2015,
5 leading to Ms. Block being "illegally detained" at Seattle Tacoma International Airport after
6 returning from London. Dkt. #19 at ¶ 3.81. Deputy Coblantz's involvement, according to
7 Plaintiff, is that:
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- 9 • Deputy Coblantz was "contacted" by John Pennington and Officer Lori Batiot
10 on the same day that a "tracker" was placed on Plaintiff's passport, Dkt. #19 at ¶
11 3.81;
- 12 • Immediately after receiving two phone calls from Mr. Pennington, Deputy
13 Coblantz received an email from DOJ Interpol that contained Plaintiff's return-
14 flight number, Dkt. #19 at ¶ 3.82;
- 15 • Deputy Coblantz then made a phone call asking the Port of Seattle and U.S.
16 Customs Officers to serve a civil order on Ms. Block, Dkt. #19 at ¶ 3.82;
- 17 • Deputy Coblantz read a news website that falsely claimed to be Plaintiff's
18 website, Dkt. #19 at ¶ 3.82; and
- 19 • Deputy Coblantz sent an e-mail to the Port of Seattle police stating that Plaintiff
20 was "anti-government", Dkt. #19 at ¶ 3.82.

21 Plaintiff then concludes that Deputy Coblantz "conspired" with Mr. Pennington and Officer
22 Batiot to charge Ms. Block with stalking. Dkt. #19 at ¶ 3.83. She also states that Deputy
23 Coblantz and Sandra Sullivan, a contract prosecutor for the City of Duvall, "retaliate[d]"
24 against her by attempting to charge her with felony criminal stalking and harassment charges.
25 Dkt. #19, ¶ 3.83. She does not allege any facts regarding the attempted charges or a connection
26 between service of the civil order and the conspiracy to file stalking charges. Nor does she
27 allege any facts alleging a connection between the alleged actions of Deputy Coblantz and
28 Plaintiff's speech.

1 Plaintiff responds that when read along with her proposed RICO statement, the
2 allegations are sufficient to maintain her First Amendment claim. Dkt. #81 at 4-10.
3 Specifically, she argues that Deputy Coblantz's connection with Mr. Pennington demonstrates
4 a desire to retaliate against her for exercising her free speech rights. *Id.* The Court disagrees.
5 Plaintiff's RICO Statement does nothing more than reiterate the allegations made in her
6 Amended Complaint. Dkt. #20 at 12, 74, 75 and 76. Moreover, Plaintiff fails to allege any
7 facts demonstrating retaliatory intent. While she argues that the alleged "anti-government"
8 statement shows Deputy Coblantz's retaliatory intent, Dkt. #81 at 7, that is nothing more than
9 speculation. The Court also rejects Plaintiff's speculation that Deputy Coblantz was not simply
10 doing his job by serving a protective order, as she presents no facts that would explain how or
11 why Deputy Coblantz would become involved in an alleged conspiracy to have Plaintiff
12 illegally detained, or how or why he would have wanted her detained. Simply alleging a vague
13 connection with Mr. Pennington does not cure these deficiencies.
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16 Likewise, Plaintiff fails to adequately support her RICO claim against these Defendants.
17 To plead a civil RICO claim, Plaintiff must sufficiently allege "(1) conduct (2) of an enterprise
18 (3) through a pattern (4) of racketeering activity (known as 'predicate acts') (5) causing injury
19 to the plaintiff's business or property." *Grimmett v. Brown*, 75 F.3d 506, 510 (9th Cir. 1996)
20 (citing 18 U.S.C. §§ 1964(c), 1962(c); *see also Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479
21 496, 105 S.Ct. 3275, 3284-85 (1985)). The "predicate acts" that constitute "racketeering
22 activity" are listed at 18 U.S.C. § 1961(a); *Turner v. Cook*, 362 F.3d 1219, 1229 (9th Cir.
23 2004).
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26 In this case, Plaintiff does not specifically identify a predicate act related to these
27 Defendants. *See* Dkts. #19 and #20. To constitute a RICO predicate act, extortion must either
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1 meet the elements of the federal crime described in the Hobbs Act or as a state felony crime.
2 18 U.S.C. § 1951. The Hobbs Act defines extortion as “obtaining of property from another,
3 with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or
4 under color of official right.” 18 U.S.C. § 1952(b). The “obtaining” element “requires a
5 showing that a defendant received something of value from the victim of the alleged extortion
6 and that the “thing of value can be exercised, transferred, or sold.” *United States v. McFall*,
7 558 F.3d 951, 956 (9th Cir. 2009). Washington law similarly requires that the defendant
8 “obtain or attempt to obtain by threat [the] property or services of the owner” RCW
9 9A.56.110. A review of Plaintiff’s Amended Complaint and attendant RICO Statement reveals
10 no allegations sufficient to satisfy these required elements. In addition, Plaintiff has failed to
11 properly identify the required “pattern” of two listed acts within ten years of each other with the
12 threat of continuing activity. *See* 18 U.S.C. § 1961(5); *Howard v. America Online*, 208 F.3d
13 741, 746 (9th Cir. 2000).

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16 King County Defendants also argue that, to the extent that the causes of action for
17 Sherman Act violations, Washington’s Law Against Discrimination (“WLAD”) violations,
18 defamation, ADA violations, and/or anti-privacy violations are alleged against them, Plaintiff
19 has not pled any facts supporting such claims. Dkt. #39 at 9-10. Having reviewed Plaintiff’s
20 87-page Amended Complaint in its entirety, the Court agrees. While Plaintiff attempts to raise
21 a defamation claim against Defendant Coblantz for allegedly referring to her as “anti-
22 government,” that statement cannot support such a claim. Washington courts recognize that
23 statements of opinion, as opposed to statements of fact, are not actionable. *Dunlap v. Wayne*,
24 105 Wash.2d 529, 537-39, 716 P.2d 842 (1986).
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Finally, the Court addresses King County Defendants' argument that Plaintiff fails to establish a *Monell*⁴ claim against the County. Dkt. #39 at 7 and 9-10. The Court agrees. In this case, Plaintiff has not sufficiently alleged any unconstitutional conduct against King County to support a plausible claim. Indeed, Plaintiff acknowledges that she has failed to plead the bases of her claim against King County, but seeks leave to amend her Complaint again to add such facts. Dkt. #81 at 19. The Court DENIES Plaintiff's request for continuance. Nothing in Plaintiff's brief demonstrates to the Court that she could allege facts adequate to support a plausible claim against King County.

For all of the above reasons, the claims against the King County Defendants will be dismissed.

C. WSBA Defendants' Motion to Dismiss

The Court next turns to the WSBA Defendants' Motion to Dismiss. Dkt. #51. The WSBA Defendants seeks dismissal of Plaintiff's claims for several reasons: (1) Plaintiff has not properly served the Amended Complaint on any of the WSBA Defendants; (2) the WSBA's Eleventh Amendment immunity bars Plaintiff's claims against the WSBA; (3) absolute quasi-judicial immunity bars all of Plaintiff's claims against the WSBA and all other WSBA Defendants; and (4) *Younger* abstention bars consideration of Plaintiff's claims against the WSBA Defendants. *Id.* Plaintiff did not timely file a Response to the motion, and the Court denied her request for additional time to file her Response. Dkt. #102. For the reasons discussed herein, the Court now GRANTS the WSBA's Motion to Dismiss.

1. Failure to Serve

WSBA Defendants first argue that Plaintiff has failed to serve any of them with a copy of the Summons and/or Complaint in this matter. Dkt. #51 at 8-9. Plaintiff has failed to

⁴ *Monell v. Dep't. of Soc. Servs.*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed.2d 611 (1978).

1 respond to this assertion. *See* Dkt. #81. However, Plaintiff has filed Affidavits of Service for
2 Defendants Eide, Bloomfield, Cottrell, Schaps, Shankland, Bank, Denton and Ende. Dkts.
3 #105, #107, #108, #109, #110, #111, #112, #113 and #114. Further, the Amended Complaint
4 was filed on February 18, 2016. Dkt. #19. Accordingly, Plaintiff has until May 18, 2016, to
5 serve that Complaint on Defendants. As a result, the Court declines to dismiss this action on
6 the basis of improper service.
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8 2. *Eleventh Amendment Immunity*

9 WSBA Defendants next argue that Plaintiff's claims are barred by the Eleventh
10 Amendment. Dkt. #51 at 10-11. The Eleventh Amendment bars suits against a state and its
11 agencies, and confers immunity from any prosecution of such suits. *Lake Cty. Est., Inc. v.*
12 *Tahoe Reg'l Planning Agency*, 440 U.S. 391, 400-01, 99 S. Ct. 1171 (1979). The Ninth Circuit
13 Court of Appeals has held that state bar associations are an "arm of the state" and therefore
14 immune from suit. *See Ginter v. State Bar of Nev.*, 625 F.2d 829, 830 (9th Cir. 1980); *Hirsh v.*
15 *Justices of the Supreme Court of the State of Cal.*, 67 F.3d 708, 715 (9th Cir. 1995); *Lupert v.*
16 *Cal. State Bar*, 761 F.2d 1325, 1327 (9th Cir. 1985). Further, the Eleventh Amendment
17 protects bar associations as state agencies because they operate as of the "investigative arm" of
18 the state high court. *O'Connor v. Nevada*, 686 F.2d 749 (9th Cir. 1982). The WSBA's "power
19 to regulate and punish lawyers makes clear that the WSBA does operate as the 'investigative
20 arm' of the Washington Supreme Court." *Eugster v. Wash. State Bar Ass'n*, 2015 U.S. Dist.
21 LEXIS 117904 (W.D. Wash. Sept. 3, 2015) (citing *O'Connor*, 686 F.2d at 750). In *Eugster*,
22 Judge Robart held that the "WSBA is a state agency immunized from suit by the Eleventh
23 Amendment." 2015 U.S. Dist. LEXIS 117904. Accordingly, the Court agrees that Plaintiff's
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1 First Amendment, RICO, right to privacy and defamation claims must be dismissed under the
2 Eleventh Amendment.

3 *3. Quasi-Judicial Immunity*

4 WSBA Defendants next argue that all of Plaintiff's claims should be dismissed on the
5 basis of absolute quasi-judicial immunity. The Ninth Circuit has found that persons performing
6 their roles in the lawyer discipline system under the authority of the state Supreme Court have
7 absolute quasi-judicial immunity from suits arising out of acts taken, or decisions made, in their
8 judicial or prosecutorial roles. *See, e.g., Hirsh v. Justices of Supreme Court of Cal.*, 67 F.3d
9 708, 715 (9th Cir. 1995) (holding that judges and prosecutors involved with state bar
10 disciplinary proceedings have quasi-judicial immunity from monetary damages); *Clark v.*
11 *Wash.*, 366 F.2d 678, 681 (9th Cir. 1966) (holding that the WSBA acts as an arm of the
12 Washington Supreme Court in connection with disciplinary proceedings, and is an integral part
13 of the judicial process and therefore entitled to the same immunity afforded prosecuting
14 attorneys in Washington). Likewise, such quasi-judicial immunity is also established by rules
15 promulgated by the Washington Supreme Court. The Washington Supreme Court has
16 exclusive responsibility in the state to administer the lawyer discipline system and to dispose of
17 individual cases of lawyer discipline. *Rules for Enforcement of Lawyer Conduct* ("ELC") 2.1.

18 Further:

19 All boards, committees, or other entities, and their members and personnel,
20 and all personnel and employees of the Washington State Bar Association,
21 acting on behalf of the Supreme Court under the Admission to Practice
22 Rules. The rules for Enforcement of Lawyer Conduct, and the Disciplinary
23 Rules for Limited Practice Officers, shall enjoy quasi-judicial immunity if
24 the Supreme Court would have immunity in performing the same functions.

25 GR 12.3. "[J]udicial immunity is an immunity from suit, not just from ultimate assessment of
26 damages." *Mireles v. Waco*, 502 U.S. 9, 11 (1991). Quasi-judicial immunity applies even
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1 when covered individuals are accused of acting maliciously and corruptly. *Grundstein v. Wash.*
2 *State Bar Ass'n*, 2012 U.S. Dist. LEXIS 127717, at *12 (W.D. Wash. Sept. 7, 2012) (quoting
3 *Pierson v. Ray*, 386 U.S. 547, 554 (1967)), *aff'd*, 576 F. App'x 708 (9th Cir. May 29, 2014).

4 The Court agrees with WSBA Defendants that all of Plaintiff's allegations regarding the
5 WSBA Defendants stem from their roles in the disciplinary process. For example, Plaintiff's
6 allegations against Ms. Eide relate to her role as disciplinary counsel on Plaintiff's disciplinary
7 matter. *See* Dkt. #19 at ¶¶ 2.11, 3.12, 3.33, 3.36, 3.37, 3.43, 3.44, 3.45, 3.46, 3.48-4.50, 3.53,
8 3.553.92 and 3.93. Likewise, Plaintiff's allegations against Ms. O'Dell's are related to her
9 conduct during the disciplinary proceeding as hearing officer, and her responsibility to act in a
10 judicial capacity.⁵ *See, e.g.*, Dkt. #19 at ¶¶ 2.19, 3.38, 3.40, 3.43, 3.44, 3.48 and 3.49.

11 Similarly, the members of the Disciplinary Board and the Conflicts Review Officers
12 performed all of their functions in their prosecutorial or judicial capacities, so absolute quasi-
13 judicial immunity bars any claims against these individuals. *See, e.g., Scheidler v. Avery*, 2015
14 U.S. Dist. LEXIS 155494, at * 24-25 (W. D. Wash. Nov. 17, 2015) (dismissing claims against
15 WSBA, Associate Director of the Office of Disciplinary Counsel, and conflicts review officer
16 based on quasi-judicial immunity); *Scannell v. Wash. State Bar Ass'n*, Case No. 2:12-cv-683-
17 SJO, Dkt. #94 (dismissing all damages claims against WSBA disciplinary counsel, hearing
18 officer, Disciplinary Board members, and Board of Governors members based on quasi-judicial
19 immunity); *Little v. Wash.*, Case No. 2:13-cv-1284-RSL, Dkt. #51 (dismissing claims against
20 WSBA Board of Governors, disciplinary counsel, assistant general counsel, and hearing officer
21 based on quasi-judicial immunity); *Grundstein*, 2012 U.S. Dist. LEXIS 127717, at **2-4 (W.D.

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⁵ Plaintiff also makes a number of inflammatory comments about Ms. O'Dell's alleged conduct in her capacity as a Guardian for vulnerable adults, which appear to have no connection to Plaintiff and which the Court will not lower itself to discuss. *See, e.g.*, Dkt. #19 at ¶ 3.39.

1 Wash. Sept. 7, 2012) (dismissing claims against WSBA disciplinary counsel and hearing
2 officer based on quasi-judicial immunity), *aff'd*, No. 12-35792, 576 F. App'x 708 (9th Cir. May
3 29, 2014).

4 Similarly, Plaintiff's ADA allegations arise from the disciplinary proceeding and are
5 therefore precluded by absolute quasi-judicial immunity. Ms. O'Dell, the hearing officer,
6 conducted the hearing at which Plaintiff claims she was muted and disconnected. Dkt. #19 at ¶
7 3.53. The Disciplinary Board also made various procedural decisions in the disciplinary
8 proceeding, including the question of accommodation. The Ninth Circuit and other District
9 Court have found that considering requests for accommodation in connection with court
10 proceedings is within the judicial capacity, as is conducting and maintaining control over
11 hearings. *See, e.g., Duvall v. Kitsap County*, 260 F.3d 1124, 1133, 1138 (9th Cir. 2001)
12 ("Ruling on a motion is a normal judicial function, as is exercising control over the courtroom
13 while court is in session."); *Memmer v. Marin County Courts*, 169 F.3d 630, 634-35 (9th Cir.
14 1999) (wherein a federal district court judge had held that judges were immune on a public
15 accommodation claim, but the Ninth Circuit did not address immunity); *Morrison v. Jones*, 607
16 F.2d 1269, 1273 (9th Cir. 1979) (explaining that under absolute quasi-judicial immunity, court
17 personnel whose challenged activities are an "integral part of the judicial process" are immune
18 from liability); *Phiffer v. Oregon*, No. CV-10-1120-SU, 2011 U.S. Dist. LEXIS 153350 (D. Or.
19 Nov. 21, 2011) (finding that the State, state court judge, court clerk, and prosecutor were all
20 immune from ADA claim arising out of the scheduling of court hearings), *aff'd*, 586 F. App'x
21 425 (9th Cir. Dec. 5, 2014). In this case, as evidenced by Plaintiff's allegations themselves, the
22 WSBA Disciplinary Board members and WSBA employees acted in a similar capacity when
23 considering Plaintiff's requests for accommodation.
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1 Accordingly, for all of these reasons, the Court agrees that all WSBA Defendants are
2 immune from suit and Plaintiff's claims against them must be dismissed.

3 4. *Younger Abstention, Res Judicata, Statute of Limitations, Failure to State a Claim*

4 Because the Court has determined that the WSBA Defendants are immune from suit,
5 the Court needs not address these Defendants' remaining arguments regarding the *Younger*
6 abstention doctrine, res judicata, statute of limitations and Plaintiff's alleged failure to state a
7 claim upon which relief may be granted.
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9 **D. Leave to Amend**

10 Ordinarily, leave to amend a complaint should be freely given following an order of
11 dismissal, "unless it is absolutely clear that the deficiencies of the complaint could not be cured
12 by amendment." *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987); *see also DeSoto v.*
13 *Yellow Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992) ("A district court does not err in
14 denying leave to amend where the amendment would be futile." (citing *Reddy v. Litton Indus.,*
15 *Inc.*, 912 F.2d 291, 296 (9th Cir. 1990)). Here, the Court concludes that granting leave to
16 amend would be futile. The Court can conceive of no possible cure for the deficiencies in
17 Plaintiff's Complaint, particularly given the invalidity of Plaintiffs' primary legal assertions as
18 discussed above. Moreover, considering Plaintiff's litigation history in this and other courts,
19 and viewing the record in this case as a whole, it is clear to the Court that Plaintiff has engaged
20 in this litigation vexatiously and as a means of harassment of the Defendants, and not merely to
21 seek justice for her alleged injuries. For that reason, the Court finds dismissal with prejudice
22 appropriate.
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E. Kenyon Disend's Motion for Sanctions

Finally, the Court addresses Kenyon Disend's Motion for Sanctions. Dkt. #47. Kenyon Disend seeks sanctions against Plaintiff for her continued vexatious litigation against the City of Gold Bar Defendants and against the Kenyon Disend Defendants, which have represented the City of Gold Bar Defendants in no less than 14 lawsuits brought by Plaintiff and/or her colleagues primarily alleging the same baseless claims. *Id.* Kenyon Disend asks the Court to impose sanctions pursuant to Federal Rule of Civil Procedure 11.

Plaintiff has opposed the motion, arguing that the Court should strike the motion in its entirety because Kenyon Disend has not answered the complaint, all pleadings are to be construed in favor of the plaintiff not in favor of the defendants, Kenyon Disend is merely attempting to submit character evidence to prove previous conduct in violation of ER 404, and the motion is an improper form of discovery attempting to force Plaintiff to demonstrate the basis for her claims without providing her with a 30-day discovery period. Dkt. #83. Alternatively, Plaintiff states that if this Court "insists on having [her] answer [] Kenyon's motion for sanctions," she would like a one-week extension of time in which to do so. *Id.* at 1. The Court DENIES Plaintiff's request for an extension of time, as it was her responsibility to either respond on the merits or seek an extension in advance of the time her Response was due. *See* LCR 7(b)(2), (d)(3) and (j). Likewise, Kenyon Disend's motion to strike Plaintiff's Response as untimely is DENIED AS MOOT, as the Court will grant Kenyon Disend's motion for the reasons below.

The Ninth Circuit Court of Appeals has set forth the considerations for Rule 11 sanctions:

An attorney is subject to Rule 11 sanctions, among other reasons, when he presents to the court "claims, defenses, and other legal contentions . . . [not]

warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law[.]” Fed. R. Civ. P. 11(b)(2). When, as here, a “complaint is the primary focus of Rule 11 proceedings, a district court must conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually baseless from an objective perspective, and (2) if the attorney has conducted a reasonable and competent inquiry before signing and filing it.” *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127 (9th Cir. 2002) (internal quotations and citation omitted). As shorthand for this test, we use the word “frivolous” “to denote a filing that is *both* baseless *and* made without a reasonable and competent inquiry.” *Moore v. Keegan Mgmt. Co (In re Keegan Mgmt. Co., Sec. Litig.)*, 78 F.3d 431, 434 (9th Cir. 1996).

Holgate v. Baldwin, 425 F.3d 671, 675-76 (9th Cir. 2005). *Pro se* litigants are also subject to Rule 11 for filing baseless lawsuits. *Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir. 1994). When a court is considering sanctioning a *pro se* litigant, the court “can properly consider plaintiff’s ability to pay monetary sanctions as one factor in assessing sanctions. It cannot, however, decline to impose any sanction, where a violation has arguably occurred, simply because plaintiff is proceeding *pro se*. A contrary conclusion would effectively place all unrepresented parties beyond the reach of Rule 11.” *Id.*

In this case, the Court finds the record clear that Plaintiff’s claims against the Kenyon Disend Defendants were frivolous, and that her motive for filing the claims was vexatious.⁶ Indeed, as noted by Kenyon Disend, Plaintiff has sent harassing emails to Kenyon Disend on a near weekly basis, threatening additional litigation any time Kenyon Disend successfully defends against her numerous lawsuits. Dkts. #48 and #49 and the Exhibits thereto. In these emails, Plaintiff refers to Kenyon Disend attorneys as “pieces of shit” and demands millions of dollars to settle her claims. Dkt. #48, Ex. A. When Kenyon Disend submits motions and related pleadings in the various lawsuits brought by Plaintiff, Plaintiff will respond by threatening to bring more lawsuits, and has even stated in open court that if the court was to

⁶ The Court incorporates by reference herein its prior findings with respect to Plaintiff’s claims against the Kenyon Disend Defendants. Dkt. #84 at 16-25.

1 rule in favor of Plaintiff's opponents she would file a lawsuit against them every week. Dkt.
2 #48, Exs. E and F. It appears that Plaintiff's actions are motivated by vindictiveness rather than
3 by a search for justice. Moreover, as previously discussed, Plaintiff's complaints against
4 Kenyon Disend are not well-grounded in fact or law, and nothing demonstrates that she
5 conducted a reasonable inquiry into the alleged fact as required by Rule 11 prior to bringing her
6 claims. As a result, the Court finds monetary sanctions appropriate and will award Kenyon
7 Disend its attorney's fees and costs for defending this litigation.
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9 In addition, the All Writs Act, 28 U.S.C. § 1651(a), gives this Court the inherent power
10 to enter a pre-filing order against a vexatious litigant. *Molski v. Evergreen Dynasty Corp.*, 500
11 F.3d 1047, 1057 (9th Cir. 2007). Before imposing this extreme remedy: (1) the litigant must
12 receive notice and a chance to be heard; (2) the Court must compile "an adequate record for
13 review;" (3) the Court must make substantive findings about the frivolous or harassing nature
14 of plaintiff's litigation; and (4) the vexatious litigant order "must be narrowly tailored to closely
15 fit the specific vice encountered." *Id.* (citation and quotation marks omitted). Plaintiff has a
16 history of harassing, meritless filings. Dkt. #48 at ¶ 3. Plaintiff has repeatedly and
17 unsuccessfully litigated issues raised here in state and federal court, including in actions against
18 these Defendants. *Id.*; *Block v. Snohomish County, et al.*, Case No. C14-0235RAJ. The instant
19 case also represents a clear example of frivolous and harassing litigation. Plaintiff has had the
20 opportunity to be heard on this motion, and the necessary record has been compiled. Therefore,
21 the Court finds a narrowly-tailored pre-filing order is now warranted.
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25 IV. CONCLUSION

26 Having reviewed the relevant pleadings, the declarations and exhibits attached thereto,
27 and the remainder of the record, the Court hereby ORDERS:
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1. The Motion to Dismiss filed by Mark Plivilech (Dkt. #45) is GRANTED. The claims against Defendant Plivilech are dismissed in their entirety with prejudice, and this Defendant shall be terminated from this action.
2. The Motion to Dismiss filed by the King County Defendants (Dkt. #39) is GRANTED. The claims against Defendants Cary Coblantz and King County are dismissed in their entirety with prejudice, and these Defendants shall be terminated from this action.
3. The Motion to Dismiss filed by the WSBA Defendants (Dkt. #51) is GRANTED. The claims against Defendants Sara Andeen, Kevin Bank, Kathryn Berger, Keith Mason Black, Stephanie Bloomfield, Michele Nina Carney, S. Nia Renei Cottrell, William Earl Davis, Stephania Camp Denton, Linda Eide, Doug Ende, Marcia Lynn Damerow Fischer, William McGillin, Michael Jon Myers, Joseph Nappi Jr., Lin O'Dell, Allison Sato, Ronald Schaps, Julie Shankland, Marc Silverman, Todd R. Startzel and Washington State Bar Association are dismissed in their entirety with prejudice, and these Defendants shall be terminated from this action.
4. The Motion for Sanctions filed by Kenyon Disend (Dkt. #47) is GRANTED as discussed above.
 - a. Plaintiff SHALL pay to Kenyon Disend Defendants their attorney's fees and costs in defending this litigation. Kenyon Disend Defendants shall submit a supplemental Declaration setting forth its fees and costs in detail and with the appropriate supporting evidence.
 - b. Any *pro se* complaint submitted for filing in this District in which Anne Block is a named Plaintiff or purports to act as party representative shall be

1 subject to review by the Court prior to the issuance of summons or service of
2 process. The following review provisions shall apply, except in cases where
3 Ms. Block is represented by an attorney licensed to practice law in this
4 District:

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6 i. The Court will review the proposed Complaint to determine whether
7 good cause exists to permit the action to proceed in light of the
8 claims raised therein and Ms. Block's past litigation abuses. The
9 proposed Complaint shall comply with Fed. R. Civ. P. 8(a) and
10 provide a clear statement of the factual and legal basis for each claim
11 asserted, specifically identifying each Defendant against whom the
12 claim is asserted. The proposed Complaint shall be accompanied by
13 a signed statement explaining, on a claim-by-claim basis, (a) whether
14 each claim was raised in any prior action (with an appropriate
15 citation) and (b) why each claim is not barred by collateral estoppel,
16 *res judicata*, and/or an applicable immunity.
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19 ii. If the Court determines that good cause has not been shown, the
20 action will be dismissed *sua sponte* without further notice. If the
21 Court also determines that sanctions are appropriate, those shall be
22 imposed at the same time the action is dismissed. Ms. Block shall
23 have an opportunity to explain why sanctions should not be imposed
24 in a post-Judgment Motion for Reconsideration filed within ten days
25 of the Judgment.
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1 5. The Court will address the remaining Motion to Dismiss (Dkt. #73), as well as the
2 three pending Motions to Intervene (Dkts. #37, #40, and #41), the Second Motion to
3 Disqualify (Dkt. #87), the Motion to Set Aside Order (Dkt. #93), the Motion for
4 Preliminary Injunction (Dkt. #85) and the Motion for Stay (Dkt. #100), in separate
5 Orders.

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7 6. The Clerk shall mail a copy of this Order to the *pro se* parties and proposed
8 Intervenors via U.S. Mail.

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10 DATED this 13th day of April 2016.

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12 RICARDO S. MARTINEZ
13 CHIEF UNITED STATES DISTRICT JUDGE
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